

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MICHAEL MARTINEZ, #01710420,

Petitioner,

v.

WARDEN B. RODRIGUEZ,

Respondent.

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Case No. 6:23-cv-371-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Michael Martinez, a former Texas Department of Criminal Justice inmate proceeding pro se, filed this petition for a writ of habeas corpus challenging the validity of a parole-revocation proceeding. The petition was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

On November 1, 2023, Judge Mitchell issued a Report and Recommendation recommending that the Court deny the petition and dismiss this case without prejudice for failure to comply with a Court order and failure to prosecute. Judge Mitchell also recommended that a certificate of appealability be denied. Docket No. 7. A copy of this Report was mailed to Petitioner at his last-known address. To date, Petitioner has not objected to the Report.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and

Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Petitioner did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 9) as the findings of this Court. This petition for habeas corpus is hereby **DENIED** and this action is **DISMISSED** without prejudice. The Court **DENIES** a certificate of appealability as to this case only and does not prevent refiling.

So **ORDERED** and **SIGNED** this **2nd** day of **October, 2024**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE